Key Issues for DEQ's Determination of State Concurrence

Issue	Discussion
Remedy Selection and Implementation	• EPA's remedy for Portland Harbor should be protective, feasible and comply with State ARARs. • The Proposed Plan and ROD should provide a framework for expeditiously moving sites through the Remedial Design and Remedial Action (RD/RA) process. • In-water cleanup should be sequenced in order to minimize recontamination during remedial activities, maximize construction resources and enable DEQ to prioritize remaining source control work where most important. • Does EPA have adequate resources for implementing the ROD? • What will be DEQ's role in implementing the ROD?
PRGs - General	• Important for remedy selection, source control and long-term performance monitoring. • How will PRG compliance will be determined (spatially, temporally, statistically)? • How will PRGs factor into source control determinations? • How will PRGs factor into recontamination assessments? • How will PRGs impact Oregon's other regulatory programs, such as Water Quality program stormwater permitting and Willamette River TMDLs? • Issue with ecological risk and how the associated PRGs were developed. • Issue with PRGs based on drinking water as beneficial use of Willamette River (see separate issue). • Issue with use of Regional Screening Levels (RSLs) for contaminants without MCLs, even when the baseline risk assessment concluded no unacceptable risk (see separate issue).
PRGs - Drinking Water Beneficial Use of Willamette River	• DEQ and EPA do not agree that drinking water is a beneficial use of the Willamette River, which has been occasionally exploited by the LWG. • EPA has developed water-based Remedial Action Objectives (RAOs) and PRGs to reflect their interpretation of beneficial use. • Should EPA and DEQ try again to resolve or justify the opposing views?
PRGs - Tap Water Regional Screening Levels	• The July 11, 2014 draft human health PRGs for surface water (RAO 3) and groundwater (RAO4) included MCLs as ARARs and tap water RSLs for contaminants that do not have MCLs. • DEQ commented that surface water and groundwater PRGs should be based on ARARs and contaminants that exceed risk criteria as determined in the BHHRA, and that tap water PRGs are not ARARs. • DEQ's main concern is manganese (Mn) which has a tap water RSL of 320 ug/L. Background groundwater and sediment pore-water likely exceed this value in most areas of Portland Harbor. The RI did not define sediment pore-water background values. • DEQ may not have the regulatory authority to require source control in the event of tap-water RSL exceedance.

Contaminant Loading	• Is LWG's draft FS loading model useable and at what spatial scale? • How can loading estimates be used to determine in-water sediment quality at appropriate spatial scales? • How could performance monitoring be used in lieu of or as additional input to the FS loading model? • How does loading factor into source control decisions?
Recontaminatio n	• DEQ's Source Control Summary Report concludes that completion of pending source control actions will be sufficient for the in-water remedy to be implemented without risk of significant recontamination. • Joint input is needed on developing the approach to determining whether recontamination is occurring and if so, when action is required.
Long-term Performance Monitoring	• Important for determining remedy performance; progress of MNR; and recontamination from in-water, upland and upriver sources. • Consideration should be given to who conducts, funds, oversees and makes decisions using monitoring data, and that the data meets the needs of both in-water and upland source control performance goals. • Need long-term monitoring plan as part of FS and before issuance of Proposed Plan. • What will be DEQ's role in overseeing long-term performance monitoring?
Data Management	• Substantial resources have been expended in developing the LWG's data management system. • How will the LWG's existing database be managed post-ROD?